



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,290	06/14/2005	Thomas L. Haschen	4845-0101PUS2	3643

2292 7590 12/13/2007

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/13/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/530,290	Applicant(s) HASCHEN ET AL.	
	Examiner Kelly Mahafkey	Art Unit 1794	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 09 October 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items):

-The Brief Page 4, Status of Claims recites that the independent claims are claims "1, 7, and 10". This is incorrect. Claims "84, 103, 105, 109, 112, 114, 115, and 119-121" are the independent claims. Claims 1, 7, and 10 were previously canceled.

-The Brief Page 5, Status of Amendments states that an amendment was entered After Final and refers to the "Advisory Action dated August 31, 2007". While it is correct that an amendment was entered After Final the incorrect date of the Advisory Action is stated in the Brief. The correct date of the Advisory Action in which the claims were entered is "September 19, 2007".



-The Brief Page 23, Grounds of Rejection is missing a 112 rejection over claims 116 and 122.

-The Brief Page 23, Grounds of Rejection states that the 103 rejection of claims 84-97 and 99-122 was made over a combination of three references. This is incorrect, the 103 rejection of claims 84-97 and 99-122 was made only over a combination of two references. The 103 rejection of claims 84-97 and 99-122 was over Heitritter (US 5824355) in view of Schingoethe (Feed Wet Distillers Grains to Dairy Cattle). See the Final Rejection mailed April 5, 2007 Page 4.

-The Brief Page 24 states the grounds of 112 rejections of "claims 84-122". This is incorrect, only claims 87, 89, 90, 96, 106, 108-111, 116, and 119-122 were rejected under 112.

-The Brief Page 31, states "claims 84-122" are rejected over 103. This is incorrect, only claims 84-97 and 99-122 are pending and/or rejected, claim 98 was canceled in the entered After Final Amedment mailed September 5, 2007.

-The Brief Page 31, states that the 103 rejection of claims 84-97 and 99-122 was made over a combination of three references. This is incorrect as stated above.



KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER